

REMARKS

Initially, Applicants thank the Examiner for the courtesies extended during the recent in-person interview held on September 14, 2009. The claim amendments and arguments submitted in this paper are consistent with the amendments and arguments presented during the course of the interview. Accordingly, entry of this amendment and reconsideration of the pending claims is respectfully requested.

Claims 15-17 and 42 were rejected under 35 U.S.C § 103(a) as being obvious in view of Halevy et al. (U.S. Pat. Pub. No. 2004/0153440), hereinafter *Halevy*, and further in view of Sim et al. (U.S. Pat. Pub. No. 2002/0078174), hereinafter *Sim*.¹

By this amendment claim 15 has been amended.² Accordingly, claims 15-17 and 42 are pending, of which claim 15 is the only independent claim at issue.

Applicants respectfully submit that the cited art of record does not anticipate or otherwise render the amended claims unpatentable for at least the reason that the cited art does not disclose, suggest, or enable each and every element of these claims.

35 U.S.C. 103 Rejections

The application is generally directed to asynchronously processing synchronous request with a Web-based service and returning aggregated asynchronous results to a client such that it appears that the request was synchronously processed. The claims as now amended recite "an asynchronous processing component that:... distributes portions of the web-based request among processing engines based on the detected and predicted processing engine capacity, including distributing a same portion of the web-based request to a plurality of different processing engines, such that each of the different processing engines in the plurality of processing engines returns a result for the same portion of the web-based request, whereafter a first result returned from the plurality of processing engine is initially selected for use" and "an error handling component that automatically determines if the first result returned is in error and uses a subsequent result returned from the plurality of processing engines if available, and discards the first result if it is in error or discards subsequent results

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Support for the amendments to the claims and for the new claims is found throughout the specification and previously presented claims, including but not limited to page 9, lines 18-22.

when the first result returned is not in error..."

As noted in the interview, this can be contrasted with Helevy and Sim. In particular, Helevy appears to show that a first reply is "displayed immediately upon receipt and processing that that later arriving results, after being merged are also presented instantaneously, provided however that they are received within a pre-defined time frame following the receipt of the first answer." Helevy at [0066]. However, Helevy does not teach "distributing a same portion of the web-based request to a plurality of different processing engines, such that each of the different processing engines in the plurality of processing engines returns a result for the same portion of the web-based request" and "an error handling component that automatically determines if the first result returned is in error and uses a subsequent result returned from the plurality of processing engines if available, and discards the first result if it is in error or discards subsequent results when the first result returned is not in error..." as recited by claim 15.

Sim also fails to teach what is recited by the claims of the present application. Rather, Sim is focused on station failures rather than results returned that are in error and discarding of results returned that are in error or discarding of subsequent results. For example, Sim teaches as paragraph [0112] that "[i]n the situation when one of the neighbor stations is failed, the DS keeps the job in its job queue, and repeatedly retries until the job is successfully completed. At the same time, the DS temporarily assumes the role of the DS in the failed station by forwarding the FDP command to the neighbor DSs of the failed station."

Thus, Applicant respectfully submits that the claims as now amended are neither anticipated, nor made obvious by the cited art.

Because each of the dependent claims depend from one of claim 15 each of the dependent claims also patentably define over the art of record for at least the same reasons.

In view of the foregoing, Applicant respectfully submits that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicant acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending application, including any official notice. Instead, Applicant reserves the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any

Official Notice, explicitly or implicitly, Applicant specifically requests that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney at (801) 533-9800.

Dated this 18th day of September, 2009.

Respectfully submitted,

/J. LAVAR OLDHAM/

RICK D. NYDEGGER
Registration No. 28,651
J. LAVAR OLDHAM
Registration No. 53,409
Attorneys for Applicant
Customer No. 47973

RDN:JLO:laf
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